

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PATRICK L. MCGUINNESS,

Plaintiff,

V.

**TXU ENERGY SOLUTIONS LP and
SCOTT HARRISON,**

Defendants.

Civil Action No. 04 CV 11170 JLT

JOINT STATEMENT PURSUANT TO LOCAL RULE 16.1

Pursuant to Local Rule 16.1 of the United States District Court for the District of Massachusetts and in compliance with the Court’s Order of September 17, 2004, Plaintiff Patrick L. McGuinness (“Plaintiff”) and Defendants (TXU Energy Solutions LP and Scott Harrison (“Defendants”)) (collectively, the “Parties”), hereby submit their Joint Statement in the above-captioned action.

1. JOINT DISCOVERY PLAN

A. Depositions and Written Discovery

The Parties agree to complete all written discovery and depositions by July 8, 2005. The parties agree to limit the number of fact depositions to ten (10) depositions for each side, pursuant to Local Rule 26.1(C). Any party that wishes to take more than ten depositions may not do so without permission of the Court. The limit on depositions set forth above shall not prevent any party from seeking a protective order, where appropriate, to preclude or limit any particular deposition.

B. Expert Depositions

In addition to the fact depositions, the Parties may also take expert depositions if necessary. Disclosure of expert witnesses shall be in accordance with applicable rules.

C. Written Discovery

The Parties agree to comply with the discovery event limitations set forth in Local Rule 26.1(C).

2. PRE-TRIAL SCHEDULE / SCHEDULE FOR FILING MOTIONS

The Parties have agreed to the following pre-trial schedule:

1. Amend pleadings and add parties by December 3, 2004.
2. Plaintiff's Expert Report to be filed by March 1, 2005.
3. Defendant's Expert Report to be filed by April 1, 2005.
4. All challenges to expert designations to be filed by July 15, 2005.
5. All fact discovery completed by July 8, 2005.
6. All dispositive motions to be filed by August 8, 2005.
7. Trial to be conducted in November / December 2005
8. A Pre-Trial Conference to be held, if appropriate, twenty one (21) days after a decision on any Rule 56 motion.

3. CERTIFICATIONS

The Parties' certifications pursuant to Local Rule 16.1(D)(3) are attached hereto as Exhibit A.

4. MAGISTRATE JUDGE

Pursuant to Local Rule 16.1(B)(3), the Parties do not agree to proceed before a Magistrate Judge on any matter in this action.

Dated: October 27, 2004

Respectfully Submitted,

/s/ Paul A. Manoff

Paul A. Manoff
BBO# 318220
47 Winter St., 4th Floor
Boston, MA 02108
(617) 542-4620

/s/ W. Stephen Cockerham

Gregory A. Manousos, BBO # 631455
Morgan, Brown & Joy, LLP
One Boston Place
Boston, MA 02108
(617) 523-6666

W. Stephen Cockerham,
Texas Bar No. 04463300
Paul W. Bowen
Texas Bar No. 24043560
Hunton & Williams LLP
Energy Plaza, 30th Floor
1601 Bryan Street
Dallas, TX 75201
(214) 979-3000

Exhibit A

LOCAL RULE 16.1 (D)(3) CERTIFICATIONS

Pursuant to Local Rule 16.1(d)(3), the undersigned Parties hereby certify that each party and that party's counsel have conferred:

(a) with a view to establishing a budget for the costs of conducting the full course -- and various alternative courses -- of the litigation; and

(b) to consider the resolution of the litigation through the use of alternative dispute resolution programs such as those outlined in Local Rule 16.4.

PLAINTIFF

/s/ Patrick L. McGuinness
Patrick L. McGuinness
Plaintiff

/s/ Paul A. Manoff

Paul A. Manoff
47 Winter St., 4th Floor
Boston, MA 02108
(617) 542-4620
BBO #318220

ATTORNEY FOR PLAINTIFF

DEFENDANTS

/s/ Kevin Bohn
TXU Energy Solutions LP
By: Kevin Bohn
Title:

/s/ Scott Harrison
Scott Harrison
Defendant

/s/ W. Stephen Cockerham

Gregory A. Manousos, BBO #631455
Morgan, Brown & Joy, LLP
One Boston Place
Boston, MA 02108
(617) 523-6666

W. Stephen Cockerham
Texas Bar No. 04463300
Paul W. Bowen
Texas Bar No. 24043560
Hunton & Williams, LLP
Energy Plaza, 30th Floor
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Dallas, TX 75201
(214) 979-3000

ATTORNEYS FOR DEFENDANTS